

other under ordinary circumstances.

(d) For purposes of this section, "immediate family" includes father, mother, brother, sister, spouse, domestic partner, child, mother-in-law, mother of domestic partner, father-in-law, father of domestic partner, grandparents, grandchild, great-grandparents, great-grandchild, step-child, child of domestic partner, foster child, and step-parents.

(e) Prior to making any determination pursuant to subsection (a), or any assignment pursuant to subsection (c), the City Manager shall consult with the Bargaining Unit.

## Section 10. Probation Period

### Section 10.1 Length of Probationary Period

All regular and promotional appointments to the classifications of this bargaining unit set forth in Appendix "A" shall be tentative and subject to a probationary period of one year from the date of probationary appointment or promotion.

Reinstatements may be subject to an optional probationary period. This option can be exercised by the City Manager when the Manager deems it necessary.

This optional probationary period can last up to but never exceed one year. Reemployment employees shall be required to fulfill any remaining part of a probationary period that was in progress at the time the individual was placed on the reemployment list.

### Section 10.2 Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for close observation of the employee's work, for securing the most effective adjustment of a new employee to a position, and for rejecting any probationary employee whose performance does not meet the required standards of work.

### Section 10.3 Appointment or Rejection of Probationer

(a) During the probationary period an employee may be rejected at any time by the City Manager without cause, without hearing, and without the right of appeal.

(b) Prior to the scheduled termination of the probationary period, the City Manager shall notify the probationer in writing as to whether the service of the probationer has been satisfactory and whether the City desires to retain the employee. If the City Manager notifies the probationer that the performance of the latter has been satisfactory, the City Manager shall appoint the probationer to the position on a regular basis, effective upon the completion of the probationary period. If the City Manager notifies the probationer that the performance of the latter has not been satisfactory, the employment of the employee shall be terminated upon such notice, or the City Manager may extend the probationary period for a specific period of time to allow for further observation and evaluation. If the probationary period is extended, the salary step increase for the employee may be deferred for the period of time of the extension.

(c) Whenever the City Manager rejects a probationer, the written notice of rejection shall advise the probationer as follows:

(1) That if the probationer believes such rejection is because of allegations of misconduct which have been publicly disclosed under such circumstances that the good name, reputation, honor, or integrity of the probationer has been stigmatized, the probationer has the right to a hearing to provide an opportunity to clear the probationer's name; and

(2) That if the probationer believes such rejection is on account of race, color, ancestry, national origin, religion, sex, marital status, physical disability, sexual orientation, participation in the activities of a labor organization, or the exercise of any right guaranteed to the probationer by statute or constitution, the probationer is entitled to a hearing to determine whether such rejection was, in fact, effectuated upon such invalid basis.

The notice shall advise the probationer that the latter may request such hearing by transmitting to the City Manager in writing not later than 15 days from the date of the notice a request for a hearing. Such request shall specify the grounds upon which the hearing is requested, as set forth in paragraphs (1) and (2) of this subsection. If the probationer does not request a hearing in the manner prescribed by this section within the period allowed, the probationer shall be deemed to have waived any right to such hearing.

(d) The City Manager shall conduct hearings requested pursuant to this section. If the hearing has been requested pursuant to (c) (2), the probationer shall have the burden of proof that the rejection was effected upon an invalid basis. At the conclusion of such hearing the City Manager may sustain the rejection, reinstate the probationer to probationary status if the probationary period has been completed, or reinstate the probationer to probationary status and extend the probationary period if otherwise permissible, if justified by the evidence presented at the hearing.

(e) If, prior to the hearing, the employee presents to the City Manager a written request that the City Manager be disqualified from conducting the hearing, the City Manager shall assign a designee having no supervisory control over the employee to conduct the hearing. At the conclusion of the hearing, the hearing officer shall recommend to the City Manager the disciplinary action to be taken, if any, and the City Manager shall make a determination and promptly notify the employee in writing of such decision.

#### Section 10.4 Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted, unless the employee is discharged for disciplinary reasons.

#### Section 11. Promotion

The City shall endeavor to fill vacancies by promotion when the City Manager determines this to be in the best interest of the City. In the event the City Manager determines to fill a vacancy by promotion, Human Resources shall prepare and administer an examination for those employees holding similar positions in lower classifications. The names of the successful candidates shall be recorded in the order of their standing in the examination on an employment list. Promotional appointments shall be made from the first three candidates on the employment list who are ready and willing to accept the position offered.

If, in the opinion of the City Manager, a vacancy in the position could be filled better by an open, competitive examination instead of a closed, promotional examination, City Manager may call for applications for the vacancy and arrange for an open, competitive examination, and for the preparation and certification of an eligible list.

Only open competitive examinations shall be administered for the following positions:

- Deputy Public Works Director for Administration & Engineering
- Recreation Services Manager
- Deputy Public Works Director for Maintenance & Operations
- Assistant Finance Director
- Assistant Library Services Director
- CATV Business Manager
- CATV System Engineer
- Housing & Redevelopment Manager